IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12524 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SENIOR SUPERINTENDENT OF POST OFFICE

Versus

SAJJANBEN PRATAPSANG CHUDASAMA

Appearance:

MS PJ DAVAWALA for Petitioners

MR NILESH M SHAH for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 11/12/2000

ORAL JUDGEMENT

Rule. With the consent of the parties, the matter is taken up for final hearing today.

It has been observed in paragraph 9 by the Industrial Tribunal that as per the evidence adduced by the witness of the Management, the respondent-workman was found to have indulged in theft of magazines and that was the reason why her services were terminated. Before the Industrial Tribunal, no enquiry papers were submitted. It is also not in dispute that the concerned employee had served continuously, in any case for more than four

years. Prima facie, therefore, it was found that it was not a genuine action of termination and the same was found to be an action of retrenchment without following procedure of law. It cannot be said that the reasoning given by the Industrial Tribunal is in any way contrary to the evidence on record or that the Tribunal has committed any error of jurisdiction. Therefore, so far as the order of reinstatement is concerned, no interference of this Court is required in a petition under Article 226 / 227 of the Constitution of India.

So far as payment of 50% back wages is concerned, Mr.N.M. Shah, appearing on caveat for the respondent, states that he has no objection if the order of back wages is set aside by this Court. In view of the aforesaid concession, order of the Industrial Tribunal is modified and in so far as the order of reinstatement is concerned, the same is confirmed. However, so far as the order of back wages is concerned, the same is set aside.

The petitioners, however, to comply with the order of the Industrial Tribunal regarding reinstatement and it is also clarified that the respondent will be entitled to regular wages from the order of the Industrial Tribunal. The petition is, therefore, partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

11th December, 2000 (P.B. Majmudar, J.)

****

(apj)